

Chapter 140

COLLECTION AGENCIES

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[HISTORY: Derived from Art. VII of Ch. V of the Charter and Ordinances, 1974, of the City of Buffalo. Amendments noted where applicable.]

§ 140-1. License required.

No person, firm or corporation shall collect, advertise to collect, attempt to collect or hold himself or itself out as able or willing to collect, for hire or remuneration in any form, any bill, debt, demand, sum of money or other thing of value due or claimed to be due or owing to any other person, firm or corporation or conduct the business commonly known as a "collection agency" without first having obtained a license so to do as hereinafter set forth, provided, however, that the provisions of this chapter shall not apply to an attorney at law engaged in the practice of his profession; to any banker, bank or banking institution acting within the limits of his or its authority as prescribed by law; nor to any person, group of persons, firm or corporation engaged in the collection only of debts, demands, sums of money or things of value which are the exclusive

property of the person, group of persons, firm or corporation attempting to make such collection.

§ 140-2. Application.

- A. Any person, firm or corporation not exempted from the provisions of this chapter who desires to engage as a business in the collection of bills, debts, demands, sums of money or other things of value, for hire or for remuneration in any form, shall make application, in writing, to the Commissioner of Permit and Inspection Services for a license so to do upon blanks to be furnished by said Commissioner. [Amended 12-9-2003, effective 12-19-2003]
- B. The application shall set forth the name or names of the applicants and their addresses and, in the case of a corporation, the names and addresses of the corporation and of the principal officers thereof, together with a statement in detail of the character of the business proposed to be carried on, the location of the applicant's principal place of business and its principal place of business in the City of Buffalo, if it maintains an office or offices elsewhere. The application shall set forth a schedule of rates proposed to be charged for making collections and whether any charge is to be made where no collection is effected and, if so, the amount thereof. It shall also set forth the character and location of the business in which the applicant has been engaged for the five years immediately preceding such application and, if not engaged in any business, the names and addresses, if any, of the applicant's employers during such five-year period. The application shall disclose the financial responsibility of the applicant and whether he or it has ever been convicted of any crime and, if so, when and where, the nature of the offense and the disposition made thereof.
- C. The application shall be signed and sworn to.

§ 140-3. Investigation of applicant. [Amended 11-14-1989, effective 11-27-1989; 12-9-2003, effective 12-19-2003]

Upon receipt of such application, the Commissioner of Permit and Inspection Services

shall cause to be made a careful inquiry concerning the applicant and the statements set forth in the application. The Director may also make such further inquiry concerning the financial responsibility and character of the applicant and the nature of the business proposed to be conducted as he deems appropriate.

§ 140-4. Issuance of license. [Amended 11-14-1989, effective 11-27-1989; 12-9-2003, effective 12-19-2003]

If the application is approved, the Commissioner of Permit and Inspection Services shall issue to the applicant a license to conduct a collection agency at the location set forth in the application, subject to any conditions in reference thereto imposed by him, upon the payment by the applicant of the license fee and the filing of the bond required by this article. On a quarterly basis, the Commissioner of Permit and Inspection Services shall report to the Common Council all such licenses granted herein.

§ 140-5. Expiration of license.

Each license issued pursuant to this chapter shall expire on the 30th day of the second September next following its issuance.

§ 140-6. Fees.

The fee for each license issued pursuant to this chapter shall be as provided in Chapter 175, Fees, and shall be paid by the applicant before the issuance of the license or any renewal thereof.

§ 140-7. Renewal of license. [Amended 5-22-1995, effective 6-2-1995; 12-9-2003, effective 12-19-2003]

Each license issued pursuant to the provisions of this chapter may be renewed biennially by the Commissioner of Permit and Inspection Services upon the payment of a license fee and the filing of the bond required by this chapter. The Commissioner of Permit and Inspection Services may, for reasonable cause, decline to renew any such license.

§ 140-8. Revocation of license. [Amended 12-9-2003, effective 12-19-2003]

The Commissioner of Permit and Inspection Services may revoke for cause any license issued pursuant to this chapter in accordance with the powers vested in him under the provisions of Section 17-2 of the Charter of the City of Buffalo. The charging or demanding of a greater fee than specified in the schedule of rates set forth in the application for making or attempting to make any collection shall be deemed a violation of this chapter and shall be grounds for the revocation of a license. Each licensee shall duly account and pay over to any person, copartnership, association or corporation entitled thereto all moneys and things of value received or collected by any such licensee in the business conducted under any such license, and failure so to do shall be deemed a violation of this chapter and shall be grounds for revocation of a license.

§ 140-9. Bond. [Amended 12-9-2003, effective 12-19-2003]

Every applicant for a collection agency license or any renewal thereof shall deposit with the Commissioner of Permit and Inspection Services, before the time of issuance of each such license or any renewal thereof, a bond in the penal sum of \$5,000, payable to the City of Buffalo, to be executed by the applicant as principal and by a duly incorporated surety company authorized to do business in the State of New York as surety, which shall be duly approved as to form by the Corporation Counsel and as to sufficiency by the Comptroller. The conditions of said bond and the form thereof shall be as follows:

COLLECTION AGENCY BOND

KNOW ALL MEN BY THESE PRESENTS

That we, _____, principal, and _____, a corporation duly authorized to do business in the City of Buffalo, County of Erie and State of New York, surety, are held and firmly bound unto the City of Buffalo in the penal sum of \$5,000, lawful money of the United States of America, to be paid to said City of Buffalo, its certain attorney or assigns, for which

payment, well and truly to be made, said principal and surety bind themselves, their and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED with our seals, and dated this ____ day of _____, in the year of our Lord 20____.

WHEREAS, the above-bounden principal _____, has applied to the City of Buffalo for a collection agency license pursuant to the provisions of Chapter 140 of the Code of the City of Buffalo, and said chapter requires this bond as a condition of granting such license;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if said principal, _____, shall in all things well and truly and faithfully comply with the provisions, conditions and requirements of Chapter 140 of the Code of the City of Buffalo, as amended, relating to collection agencies and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit or any unlawful act or omission of said _____, his agents or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under such license or caused by any other violation of said chapter in carrying on the business for which such license is granted, then this obligation shall be void; otherwise to be and remain in full force and effect; provided, however, and it is expressly understood and agreed, that any person, copartnership, association or corporation damaged by reason of the failure of the principal to perform and fulfill the foregoing conditions of this bond may maintain an action to recover such damages against the obligors in this bond in the same manner as though any such person, copartnership, association or corporation were specifically named therein, provided that such

action is brought within one year after the time the cause of action accrued.

(Signatures, seals, acknowledgments, powers of attorney, financial statements, etc., to be affixed to the foregoing.)

§ 140-10. Location for conducting business. [Amended 12-9-2003, effective 12-19-2003]

No collection agency business shall be conducted at any location other than the location specified in the license. The Commissioner of Permit and Inspection Services may approve a change in the location of the place of business specified in any such license upon written application therefor by the licensee to said Commissioner.

§ 140-11. Transferability of licenses.

No license shall be transferred from a licensee to any other person, copartnership, firm or corporation.

§ 140-12. Revisions to schedule of rates. [Amended 12-9-2003, effective 12-19-2003]

The Commissioner of Permit and Inspection Services, in his discretion, may approve revisions in the schedule of rates set forth in the application of a licensee to be charged for services rendered upon the licensee filing, in duplicate, with said Commissioner a new revised schedule of such rates, which shall contain a complete statement of all rates, both revised and unrevised, proposed to be charged by the licensee. Each such revised schedule shall be signed and sworn to by the licensee. No such revised schedule shall take effect unless and until the Commissioner of Permit and Inspection Services shall signify his approval thereof in writing on one of the duplicate copies of said revised schedule so filed with him and shall deliver the same to the licensee.